In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 19547 of 2005

Date of Decision: September 28, 2006

Smt. Sarla Devi

…Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Azad Singh, Advocate,
for the petitioner.

Mr. Dinesh Kumar Jangra, Advocate,
for the respondents.

JUDGMENT

M.M. KUMAR, J.

Smt. Sarla Devi widow of late Shri Satbir Singh has filed the instant petition under Article 226 of the Constitution for quashing order dated 21.11.2005 (P-3) passed by respondent No. 2 declining her claim for family pension. A further prayer has been made for directing the respondents to finalise the family pension case of the husband of the petitioner and to make payment of arrears from the date of his death along with 12% interest.

Satbir Singh, husband of the petitioner was appointed in the erstwhile Haryana State Electricity Board as a Regular Work-Mate on 11.5.1993 after getting himself medically examined by the Chief Medical Officer, Sonepat. On 24.12.1993, while discharging his duty he met with an accident and was admitted in the hospital, where he unfortunately expired on 26.12.1993. In August 1994, the petitioner was appointed as Peon under the Ex-gratia Scheme. It has been claimed that the petitioner met time and again to the respondent authorities for grant of family pension on account of death of her husband but no positive response was given. Thereafter she made a representation for grant of family pension on 14.6.2005 (P-1) and also sent a legal notice on 22.8.2005 (P-2). It is appropriate to mention here that in the representation as well as legal notice the petitioner has brought to the notice of the respondent authorities a judgment of this Court rendered in the case of **Krishna Devi v. UHBVNL,** (C.W.P. No. 11285 of 2004, decided on 31.1.2005). It has been asserted that the husband of the petitioner and husband of Smt. Krishna Devi joined service on the same day and in the same office. The husband of Smt. Krishna Devi, namely, Late Shri Satbir Singh expired prior to the husband of the present petitioner on 19.11.1993. The husband of the petitioner expired on 26.12.1993 and in this manner he has served the respondents for a longer period. This Court while allowing C.W.P. No. 11285 of 2004 filed by Smt. Krishna Devi, has granted the benefit of family pension in her favour (P-4). The respondents, however, rejected the claim of the petitioner for grant of family

pension vide order dated 21.11.2005 on the ground that as per the instructions family pension is admissible only to such deceased employees who have completed minimum one year qualifying service at the time of death and the service of Shri Satbir Singh (husband of the petitioner) was less than one year at the time of his death (P-3).

In the written statement the respondents have reiterated their stand that since the husband of the petitioner has not completed one year's qualifying service at the time of his death, therefore, the she is not entitled to the benefit of family pension. The claim of the petitioner has been opposed by placing reliance on Clause 4 of the Family Pension Scheme 1964, by pointing out that the rule required minimum period of one year of continuous service without break which the husband of the petitioner did not fulfill. It has further been asserted by the respondents that the petitioner has approached the respondents in the year 2005 after a delay of about more than 11 years after the death of her husband for grant of family pension, therefore, she does not deserve the family pension.

Having heard learned counsel for the parties, we are of the considered view that the instant petition deserves to be allowed as the petitioner fulfills all the necessary requirements of Family Pension Scheme 1964 as incorporated in Punjab Civil Services Rules, Volume II (as adopted by the respondent Nigam). It would be appropriate to make a reference to Clause 4 of the Scheme, which reads as under:

" 4. This scheme is administered as below:

The family pension is admissible in case of death while in service or after retirement on or after the 1st July, 1964, if at the time of death, the retired officer was in receipt of a compensation, invalid, retiring or superannuation pension. The Family Pension will not be admissible in case of death after retirement if the retired employee at the time of death was in receipt of the gratuity only. In case of death while in service a Government employee should have completed a minimum period of one year of continuous service without break.

Note-1: The term one year continuous service used in para 4(i) above is inclusive of permanent/ temporary service in a pensionable establishment but does not include periods of extraordinary leaves, boy service and suspension period unless that is regularised by the competent authority or before completion of one year continuous service provided the deceased government employee concerned immediately prior to his recruitment to the service or post was examined by the appropriate Medical Authority and declared fit by that authority for Government service."

The afore-mentioned Scheme has been subject matter of consideration of this Court in the case of **Savitri Devi v. State of**

Haryana and others, 1996 (2) RSJ 854. A Division Bench of this Court has held that non completion of one year of service is no ground to deny the benefit of family pension to a widow. The afore-mentioned view has been repeatedly followed by this Court in the cases of **Sundra Devi v. U.H.B.V.N. Ltd., 2005 (4) SCT 634; Krishana Devi v. U.H.B.V.N. Ltd.** (Civil Writ Petition No. 11285 of 2004, decided on 31.1.2005)**; Meena Kumari v. U.H.B.V.N. Ltd.** (CWP No. 1083 of 2003, decided on 28.7.2003); **Sharmila Devi v. U.H.B.V.N. Ltd., 2002 (4) SCT 178** and **Kusum Devi v. U.H.B.V.N. Ltd.,** (CWP No. 86 of 2003 decided on 28.7.2003).

In view of the above, the writ petition succeeds and the impugned order dated 21.11.2005 (P-3) is quashed. A direction is issued to the respondents to release family pension to the petitioner for three years and two months (38 months) preceding the date of filing the petition, which was filed on 14.12.2005, within a period of two months from the date a certified copy of this judgment is present to them. The petitioner shall be entitled to the payment of arrears of family pension with effect from the date it was due till date. The respondents shall continue to pay family pension for life. If the arrears are not paid within the aforesaid period then the petitioner shall be entitled to interest @ 6% per annum on the total amount.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

September 28, 2006

Pkapoor